

**REPORT OF THE AUDIT OF THE
MARSHALL COUNTY
SHERIFF**

**For The Year Ended
December 31, 2015**



**MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS
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EXECUTIVE SUMMARY

AUDIT OF THE MARSHALL COUNTY SHERIFF

**For The Year Ended
December 31, 2015**

The Auditor of Public Accounts has completed the Marshall County Sheriff's audit for the year ended December 31, 2015. Based upon the audit work performed, the financial statement presents fairly, in all material respects, the receipts, disbursements, and excess fees in conformity with the regulatory basis of accounting.

Financial Condition:

Excess fees increased by \$60,931 from the prior year, resulting in excess fees of \$210,509 as of December 31, 2015. Receipts decreased by \$101,011 from the prior year and disbursements decreased by \$161,942.

Report Comments:

2015-001 The Marshall County Sheriff's Office Violated State Statute By Contracting With Private Entities
2015-002 The Marshall County Sheriff Failed To Fulfill Payroll Obligations On A Timely Basis

Deposits:

The sheriff's deposits were insured and collateralized by bank securities.

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MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Kevin Neal, Marshall County Judge/Executive
The Honorable Kevin Byars, Marshall County Sheriff
Members of the Marshall County Fiscal Court

Independent Auditor's Report

Report on the Financial Statement

We have audited the accompanying Statement of Receipts, Disbursements, and Excess Fees - Regulatory Basis of the Sheriff of Marshall County, Kentucky, for the year ended December 31, 2015, and the related notes to the financial statement.

Management's Responsibility for the Financial Statement

Management is responsible for the preparation and fair presentation of the financial statement in accordance with accounting practices prescribed or permitted by the laws of Kentucky to demonstrate compliance with the Commonwealth of Kentucky's regulatory basis of accounting as described in Note 1, which is a basis of accounting other than accounting principles generally accepted in the United States of America. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the financial statement that is free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on the financial statement based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, and the *Audit Guide for County Fee Officials* issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statement. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statement, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statement in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statement.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.



The Honorable Kevin Neal, Marshall County Judge/Executive
The Honorable Kevin Byars, Marshall County Sheriff
Members of the Marshall County Fiscal Court

Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles

As described in Note 1 of the financial statement, the financial statement is prepared by the Marshall County Sheriff on the basis of the accounting practices prescribed or permitted by the laws of Kentucky to demonstrate compliance with the Commonwealth of Kentucky's regulatory basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America.

The effects on the financial statement of the variances between the regulatory basis of accounting described in Note 1 and accounting principles generally accepted in the United States of America, although not reasonably determinable, are presumed to be material.

Adverse Opinion on U.S. Generally Accepted Accounting Principles

In our opinion, because of the significance of the matter discussed in the Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles paragraph, the financial statement referred to above does not present fairly, in accordance with accounting principles generally accepted in the United States of America, the financial position of each fund of the Marshall County Sheriff, as of December 31, 2015, or changes in financial position or cash flows thereof for the year then ended.

Opinion on Regulatory Basis of Accounting

In our opinion, the financial statement referred to above presents fairly, in all material respects, the receipts, disbursements, and excess fees of the Marshall County Sheriff for the year ended December 31, 2015, in accordance with the basis of accounting practices prescribed or permitted by the Commonwealth of Kentucky as described in Note 1.

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated August 4, 2016 on our consideration of the Marshall County Sheriff's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control over financial reporting and compliance.

The Honorable Kevin Neal, Marshall County Judge/Executive
The Honorable Kevin Byars, Marshall County Sheriff
Members of the Marshall County Fiscal Court

Other Reporting Required by *Government Auditing Standards* (Continued)

Based on the results of our audit, we have presented the accompanying comments and recommendations, included herein, which discuss the following report comments:

- 2015-001 The Marshall County Sheriff's Office Violated State Statute By Contracting With Private Entities
- 2015-002 The Marshall County Sheriff Failed To Fulfill Payroll Obligations On A Timely Basis

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mike Harmon", with a long horizontal line extending to the right.

Mike Harmon
Auditor of Public Accounts

August 4, 2016

MARSHALL COUNTY
KEVIN BYARS, SHERIFF
STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2015

Receipts

Federal Grants:

Highway Safety Grant	\$ 12,126	
Community Oriented Policing Services (COPS) Hiring Grant	23,017	\$ 35,143

State - Kentucky Law Enforcement Foundation Program Fund (KLEFPF)		78,694
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State Fees For Services:

Finance and Administration Cabinet	104,713	
Sheriff Security Service	15,226	119,939

Circuit Court Clerk:

Fines and Fees Collected		12,241
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Fiscal Court		481,319
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County Clerk - Delinquent Taxes		32,620
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Commission On Taxes Collected		904,487
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Fees Collected For Services:

Auto Inspections	14,200	
Accident and Police Reports	4,399	
Serving Papers	31,420	
Fiscal Court Civil Service Fee	7,690	
Carrying Concealed Deadly Weapon Permits	13,240	70,949

Other:

Add-On Fees	73,487	
Impounded Vehicles	313	
Mental Health Transport	14,676	
Miscellaneous	1,053	89,529

Reimbursements:

City of Hardin	4,278	
Insurance	17,190	
School Officer Salary	45,310	
Other	52,707	
Restitution	481	119,966

The accompanying notes are an integral part of this financial statement.

MARSHALL COUNTY
 KEVIN BYARS, SHERIFF
 STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2015
 (Continued)

Receipts (Continued)

Interest Earned	\$ 314
Total Receipts	1,945,201

Disbursements

Operating Disbursements and Capital Outlay:

Personnel Services-

Deputies' Gross Salaries	\$ 1,140,661
KLEFPF Gross Salaries	54,249
Overtime Gross Salaries	122,876

Employee Benefits-

Employer's Share Social Security	3,818
Employer's Share Hazardous Duty Retirement	17,255

Materials and Supplies-

Office Materials and Supplies	7,731
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Auto Expense-

Gasoline	75,911
Maintenance and Repairs	53,450
Boat Expenses	1,304
ATV Expenses	539
Auto Equipment	25,000

Deputy Expenses-

Equipment	31,733
Supplies	1,895
Uniform/Clothing	7,361

Other Charges-

Advertising	747
Travel and Training	19,129
Dues	2,102
Postage	8,984
Bond	1,578
Civil Process - Fiscal Court Fees	7,680
Transporting Prisoners	2,637
Impounded Vehicles	982
Miscellaneous	5,522

The accompanying notes are an integral part of this financial statement.

MARSHALL COUNTY
 KEVIN BYARS, SHERIFF
 STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2015
 (Continued)

Disbursements (Continued)

Operating Disbursements and Capital Outlay: (Continued)

Capital Outlay-		
Office Equipment	\$	10,856
Vehicles		<u>32,177</u>
Total Disbursements		<u>\$ 1,636,177</u>
Net Receipts		309,024
Less: Statutory Maximum		<u>94,574</u>
Excess Fees		214,450
Less: Training Incentive Benefit		<u>3,941</u>
Excess Fees Due County for 2015		210,509
Payment to Fiscal Court - February 16, 2016		<u>210,509</u>
Balance Due Fiscal Court at Completion of Audit	\$	<u><u>0</u></u>

The accompanying notes are an integral part of this financial statement.

MARSHALL COUNTY
NOTES TO FINANCIAL STATEMENT

December 31, 2015

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of receipts over disbursements to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the sheriff as determined by the audit. KRS 134.192 requires the sheriff to settle excess fees with the fiscal court at the time he files his annual settlement with the fiscal court on or before September 1 of each year. KRS 64.830 requires an outgoing sheriff to settle excess fees with the fiscal court of his county by March 15 immediately following the expiration of his term of office.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a special purpose framework. Under this regulatory basis of accounting receipts and disbursements are generally recognized when cash is received or disbursed with the exception of accrual of the following items (not all-inclusive) at December 31 that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2015 services
- Reimbursements for 2015 activities
- Tax commissions due from December tax collections
- Payments due other governmental entities for payroll
- Payments due vendors for goods or services provided in 2015

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the county treasurer in the subsequent year.

C. Cash and Investments

KRS 66.480 authorizes the sheriff's office to invest in the following obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

MARSHALL COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2015
(Continued)

Note 2. Employee Retirement System and Other Post-Employment Benefits

The county official and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems (KRS). This is a cost sharing, multiple employer defined benefit pension plan, which covers all eligible full-time employees and provides for retirement, disability and death benefits to plan members. Benefit contributions and provisions are established by statute.

Nonhazardous covered employees are required to contribute five percent of their salary to the plan. Nonhazardous covered employees who begin participation on or after September 1, 2008 are required to contribute six percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 17.67 percent for the first six months and 17.06 percent for the last six months.

Hazardous covered employees are required to contribute eight percent of their salary to the plan. Hazardous covered employees who begin participation on or after September 1, 2008 are required to contribute nine percent of their salary to be allocated as follows: eight percent will go to the member's account and one percent will go to the KRS insurance fund. The county's contribution rate for hazardous employees was 34.31 percent for the first six months and 32.95 percent for the last six months.

In accordance with Senate Bill 2, signed by the Governor on April 4, 2014, plan members who began participating on, or after, January 1, 2014, were required to contribute to the Cash Balance Plan. The Cash Balance Plan is known as a hybrid plan because it has characteristics of both a defined benefit plan and a defined contribution plan. Members in the plan contribute a set percentage of their salary each month to their own accounts. Members contribute five percent (nonhazardous) and eight percent (hazardous) of their annual creditable compensation and one percent to the health insurance fund which is not credited to the member's account and is not refundable. The employer contribution rate is set annually by the Board based on an actuarial valuation. The employer contributes a set percentage of the member's salary. Each month, when employer contributions are received, an employer pay credit is deposited to the member's account. A member's account is credited with a four percent (nonhazardous) and seven and one-half percent (hazardous) employer pay credit. The employer pay credit represents a portion of the employer contribution.

The sheriff's contribution for calendar year 2013 was \$19,970, calendar year 2014 was \$22,032, and calendar year 2015 was \$17,255.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65. Nonhazardous employees who begin participation on or after September 1, 2008 must meet the rule of 87 (member's age plus years of service credit must equal 87, and the member must be a minimum of 57 years of age) or the member is age 65, with a minimum of 60 months service credit.

Aspects of benefits for hazardous employees include retirement after 20 years of service or age 55. For hazardous employees who begin participation on or after September 1, 2008 aspects of benefits include retirement after 25 years of service or the member is age 60, with a minimum of 60 months of service credit.

MARSHALL COUNTY
 NOTES TO FINANCIAL STATEMENT
 December 31, 2015
 (Continued)

Note 2. Employee Retirement System and Other Post-Employment Benefits (Continued)

CERS also provides post-retirement health care coverage as follows:

For members participating prior to July 1, 2003, years of service and respective percentages of the maximum contribution are as follows:

Years of Service	% Paid by Insurance Fund	% Paid by Member through Payroll Deduction
20 or more	100%	0%
15-19	75%	25%
10-14	50%	50%
4-9	25%	75%
Less than 4	0%	100%

As a result of House Bill 290 (2004 General Assembly), medical insurance benefits are calculated differently for members who began participation on or after July 1, 2003. Once members reach a minimum vesting period of ten years, non-hazardous employees whose participation began on or after July 1, 2003, earn ten dollars per month for insurance benefits at retirement for every year of earned service without regard to a maximum dollar amount. This dollar amount is subject to adjustment annually based on the retiree cost of living adjustment, which is updated annually due to changes in the Consumer Price Index.

Hazardous employees whose participation began on or after July 1, 2003, earn 15 dollars per month for insurance benefits at retirement for every year of earned service without regard to a maximum dollar amount. Upon the death of a hazardous employee, such employee's spouse receives ten dollars per month for insurance benefits for each year of the deceased employee's hazardous service. This dollar amount is subject to adjustment annually based on the retiree cost of living adjustment, which is updated annually due to changes in the Consumer Price Index.

KRS issues a publicly available annual financial report that includes financial statements and required supplementary information on CERS. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, KY 40601-6124, or by telephone at (502) 564-4646.

Note 3. Deposits

The Marshall County Sheriff maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240, the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the sheriff and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

MARSHALL COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2015
(Continued)

Note 3. Deposits (Continued)

Custodial Credit Risk – Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the sheriff's deposits may not be returned. The Marshall County Sheriff does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 66.480(1)(d) and KRS 41.240. As of December 31, 2015, all deposits were covered by FDIC insurance or a properly executed collateral security agreement.

Note 4. Drug Forfeiture Account

The Marshall County Sheriff's office maintains a drug forfeiture account. The account is funded by court-ordered forfeitures of money and property, and interest received on deposits. The funds are to be used for various law enforcement operations, equipment, and education to fight against drug problems in Marshall County. As of January 1, 2015, the drug forfeiture account had a restated beginning balance of \$40,556 due to a prior year voided check. During the year, funds totaling \$20,355 were received and \$38,778 was expended, leaving a balance of \$22,133 as of December 31, 2015.

Note 5. Drug Awareness Resistance Education Account

The Marshall County Sheriff's office maintains a Drug Awareness Resistance Education (DARE) account for the promotion of drug awareness and prevention in the elementary schools. Funding for the DARE program is provided primarily by donations made to the United Fund Drive of Calvert City, and interest earned on the deposit of these funds. As of January 1, 2015, the DARE account had a balance of \$832. During the year, funds totaling \$2,018 were received and \$1,822 was expended, leaving a balance of \$1,028 as of December 31, 2015.

Note 6. Donation Account

In December 2007, the Marshall County Sheriff's office established a donation account as authorized by KRS 61.310(8). This account is used to account for donations from local businesses or other organizations and interest earned on the deposit of these funds. As of January 1, 2015, the donation account had a balance of \$833. During the year, funds totaling \$2,000 were received and \$913 was expended, leaving a balance of \$1,920 as of December 31, 2015.

Note 7. Drug Enforcement Administration (DEA) Asset Forfeiture Account

In August 2012, the Marshall County Sheriff's office established a DEA asset forfeiture account as authorized by the U.S. Department of Justice. This account is funded by DEA confiscated assets in asset sharing. The funds are to be used to support narcotics investigations. As of January 1, 2015, the DEA asset forfeiture account had a balance of \$165. During the year, no funds were received or expended, leaving a balance of \$165 as of December 31, 2015.

MARSHALL COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2015
(Continued)

Note 8. Federal Grants

A. Highway Safety Grant

The Marshall County Sheriff's office received federal grant funds passed through the Kentucky Transportation Cabinet Office of Highway Safety in the amount of \$12,126. The grant funds were reimbursements for expenses relating to highway safety issues, more specifically, alcohol countermeasures. As of December 31, 2015, the Marshall County Sheriff's office was in compliance with the terms of the grant program.

B. COPS Hire Grant

The Marshall County Sheriff's office received grant funds from the Community Oriented Policing Services (COPS) Hiring Program (CHP) in the amount of \$23,017. CHP grants help provide funding to local law enforcement agencies for the hiring of additional officers. As of December 31, 2015, the Marshall County Sheriff's office was in compliance with the terms of the grant program.

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REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL
STATEMENT PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*



MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Kevin Neal, Marshall County Judge/Executive
The Honorable Kevin Byars, Marshall County Sheriff
Members of the Marshall County Fiscal Court

**Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards**

Independent Auditor's Report

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the Statement of Receipts, Disbursements, and Excess Fees - Regulatory Basis of the Marshall County Sheriff for the year ended December 31, 2015, and the related notes to the financial statement and have issued our report thereon dated August 4, 2016. The Marshall County Sheriff's financial statement is prepared on a regulatory basis of accounting, which demonstrates compliance with the Commonwealth of Kentucky's regulatory basis of accounting and budget laws, which is a basis of accounting other than accounting principles generally accepted in the United States of America.

Internal Control over Financial Reporting

In planning and performing our audit of the financial statement, we considered the Marshall County Sheriff's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the Marshall County Sheriff's internal control. Accordingly, we do not express an opinion on the effectiveness of the Marshall County Sheriff's internal control.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control over financial reporting that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described in the accompanying comments and recommendations, we identified a certain deficiency in internal control that we consider to be a material weakness.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statement will not be prevented, or detected and corrected on a timely basis. We consider the deficiency described in the accompanying comments and recommendations as item 2015-002 to be a material weakness.



Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With *Government Auditing Standards*
(Continued)

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Marshall County Sheriff's financial statement is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed an instance of noncompliance or other matters that is required to be reported under *Government Auditing Standards* and which is described in the accompanying comments and recommendations as item 2015-001.

Sheriff's Responses to Findings

The Marshall County Sheriff's responses to the findings identified in our audit are described in the accompanying comments and recommendations. The Marshall County Sheriff's responses were not subjected to the auditing procedures applied in the audit of the financial statement and, accordingly, we express no opinion on them.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Respectfully submitted,



Mike Harmon
Auditor of Public Accounts

August 4, 2016

COMMENTS AND RECOMMENDATIONS

MARSHALL COUNTY
KEVIN BYARS, SHERIFF
COMMENTS AND RECOMMENDATIONS

For The Year Ended December 31, 2015

STATE LAWS AND REGULATIONS:

2015-001 The Marshall County Sheriff's Office Violated State Statute By Contracting With Private Entities

The Marshall County Sheriff's office received funds from two private entities doing business in Marshall County. These companies wanted a security presence at their respective locations. Under the advisement of a third-party agency, the Marshall County Sheriff's office billed these private entities for services rendered by the sheriff's office.

KRS 64.410(2)(b) prohibits the sheriff or a sheriff's deputy, acting in his or her official capacity, from receiving any fee for his or her services unless the law has authorized and fixed a fee for the services. In addition, KRS 61.310(2) and (4) state, in part, that a peace officer, including a sheriff and his or her deputies, "shall not receive any compensation or remuneration, directly or indirectly, from any person for the performance of any service or duty," except that "[a] peace officer may, while in office, and during hours other than regular or scheduled duty hours, act in any private employment as a guard or watchman or in any other similar or private employment."

By billing and receiving funds from private entities for services provided by the sheriff's office, the sheriff was not in compliance with KRS 64.410(2)(b) or KRS 61.310. As a result, we recommend the sheriff comply with said statutes by not contracting with private entities to provide law enforcement services. If the sheriff chooses to allow deputies to contract directly with private entities to serve as a guard or watchman during off-duty hours, office policies need to be in place to address the use of county equipment and off-duty deputies in uniform.

Sheriff's Response: This has been an ongoing controversy for the last several years. The KSA Director has been talking with the State Auditor's Office for the last couple of years and it was stated at our Sheriff's Conference in 2015 that we can contract with entities that are subcontracted by the KY State Transportation Cabinet as was done in 2015. The Sheriff's Office was following a recommendation from the Department of Local Government on how to compensate our Deputies. Also the KRS 61.310 defines "peace officer" as any sheriff, deputy sheriff, constable, deputy constable, patrol or any other peace officer or deputy peace officer as well as KRS 446.010(31) defines it as sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, and other persons with similar authority to make arrests. Which means in my opinion that City Police, State Police, KY Fish and Wildlife Officers and anyone who has arrest powers are ineligible as well, but yet all of these entities throughout the State with the exception of Deputy Sheriff's are allowed to do this and are and have been paid through their employer as overtime and the contractor pays the entity. I have been told that myself by several Chiefs of Police throughout the state of KY, I have been told that by Troopers working Interstate details just like we have been doing. Most of the I have talked with Chiefs have universities in their town and special events are very often and Campus Police do not have enough, so they are contracted to help them out, as well as several National Events held in our State where several 100,000 people attend and that event has contracted police officers as well as KSP and they have been compensated as I have been told. I do not care how this is handled, matter of fact we have corrected the issue in 2016 as has been recommended by your office and are in compliance and will continue to do so, but the inconsistency of the use of this statute is very disturbing to me and other Sheriff's across this State as we are being singled out and yet everyone else is allowed to do this. Deputy Sheriff's as a whole are some of the lowest paid Law Enforcement Officers in the State. All I am asking is to be fair across the board, if I am asked to not do this, then as statute defines, all "peace officers" are not to do it, and if there are State entities and municipality entities continuing to operate this way, you audit them the same and make them change as well.

MARSHALL COUNTY
KEVIN BYARS, SHERIFF
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2015
(Continued)

STATE LAWS AND REGULATIONS (Continued):

2015-001 The Marshall County Sheriff's Office Violated State Statute By Contracting With Private Entities
(Continued)

Auditor's Response: It is the role of the Auditor of Public Accounts (APA) to audit for compliance with state statutes, including KRS 64.410 and KRS 61.310. The applicability of the statutes in these circumstances is clear, and the APA strives to provide consistent recommendations on all audits conducted by our staff. If the Kentucky Sheriffs' Association desires a change to these statutes, such a change can only be effected by legislative action and is outside the purview of the APA.

INTERNAL CONTROL - MATERIAL WEAKNESS:

2015-002 The Marshall County Sheriff Failed To Fulfill Payroll Obligations On A Timely Basis

The Marshall County Sheriff's office did not disburse payroll amounts to the fiscal court on a timely basis. Under the current system, the county processes and distributes the sheriff's office payroll with the expectation of timely reimbursement. The sheriff did not require the bookkeeper to pay payroll in a timely manner. The sheriff's practice of untimely payments to the county for payroll causes difficulties on the part of the county in maintaining a balanced payroll fund. Proper internal controls over cash and cash balances include the monitoring of financial obligations. Management's failure to properly monitor these activities can result in financial obligations going unpaid. We recommend the sheriff implement monitoring procedures over cash and cash balances and reimburse the fiscal court for payroll on a timely basis.

Sheriff's Response: As all Sheriff's Offices in the State of KY that operate on a fees budget, we were not able to pay the Fiscal Court back in a timely manner because of no income coming in until tax season. This has been addressed by the Marshall County Fiscal Court and voted to fee pool starting January 1, 2016 as recommended by your office.

Auditor's Response: Fee pooling is a management decision and has no bearing on auditing principles. The Auditor of Public Accounts does not make recommendations for or against fee pooling.